

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MICHAEL RALPH PADILLA,

Petitioner,

v.

Civ. No. 22-0745 KG-GJF

ATTORNEY GENERAL FOR THE
STATE OF NEW MEXICO,

Respondent.

ORDER OF DISMISSAL

This matter is before the Court following Petitioner's failure to cure deficiencies in his Letter-Motion Challenging State Convictions. (Doc. 1) (Letter-Motion). Petitioner is incarcerated and proceeding *pro se*. The Letter-Motion alleges his state sentence is unfair and a miscarriage of justice. Federal challenges to a state conviction or sentence must be raised in a 28 U.S.C. § 2254 habeas petition. *See McIntosh v. United States Parole Commission*, 115 F.3d 809, 811 (10th Cir. 1997). The Clerk's Office mailed Petitioner a blank Section 2254 petition and a blank motion to proceed *in forma pauperis*. By an Order entered November 3, 2022, the Court directed him to return a completed Section 2254 petition and address the \$5 habeas filing fee. The Order warned that the failure to timely comply would result in dismissal of this case without further notice.

The deadline to file a Section 2254 petition and address the fee was December 5, 2022. Plaintiff did not comply with either directive, show cause for this failure, or otherwise respond to the Order. Hence, the Court will dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b). That rule permits dismissal for "failure to prosecute [and] comply with the ... court's

orders.” *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS ORDERED:

1. Petitioner’s Letter-Motion Challenging State Convictions (Doc. 1) is dismissed without prejudice.
2. The Court will enter a separate Judgment closing this civil habeas case.


UNITED STATES DISTRICT JUDGE